

### **§120.1. Definitions.**

The words and terms used in this subchapter have the meanings as given in the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, or the regulations promulgated thereunder. Unless specifically defined in the Solid Waste Disposal Act or the regulations promulgated thereunder, the terms used in this subchapter have the meanings commonly ascribed to them in the field of air pollution control. The term "facility" as used in this subchapter refers to a hazardous or solid waste management facility as defined in the Solid Waste Disposal Act. The use of the term "modified" in this subchapter is consistent with the term "modification" as defined in the Texas Clean Air Act.

December 13, 1991

### **§120.3. Applicability.**

(a) This subchapter applies to all hazardous waste or solid waste management facilities which are required to obtain a permit by the Texas Water Commission (TWC) pursuant to the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(e)(4)(A)(i), except as provided in subsections (c)-(e) of this section. For purposes of this subchapter, "a facility in existence on or before September 1, 1987" refers to a hazardous waste management facility or hazardous waste land disposal facility that is used for the storage, processing, or disposal of hazardous waste and is authorized by a hazardous waste permit or is physically present and awaiting final action on an application submitted pursuant to §§335.2(c), 335.43(b), and 335.45(b) of this title (relating to Permit Required; Permit Required; and Effect on Existing Facilities), including any revisions made in accordance with §305.51 of this title (relating to Revision of Applications for Hazardous Waste Permits).

(b) Hazardous or solid waste management facility units which otherwise would not be subject to TWC permitting requirements, but would be subject to the permitting requirements of Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) and are located at waste management facilities which manage waste from off-site sources and are permitted by TWC after September 1, 1987, shall be regulated by the air quality permitting requirements of this subchapter.

(c) Any person who plans to construct or engage in the modification of a hazardous waste or solid waste management facility shall obtain authorization for such construction or modification under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) if the proposed construction or modification is subject to the new source review requirements of the Federal Clean Air Act, Title I, Part C or D, 42 United States Code §§7401 et seq.

(d) The air quality permitting requirements of this subchapter do not apply to facilities in existence on or before September 1, 1987, except for facility units which incinerate or burn hazardous or solid waste.

(e) The air quality permitting requirements of this subchapter do not apply to the expansion of hazardous waste land disposal facilities in existence on or before September 1, 1987.

December 13, 1991

**§120.11. Permit Conditions.**

Permits for facilities to which this subchapter applies may contain terms and conditions relating to air quality. The holders of such permits shall comply with any and all such terms and conditions.

December 13, 1991

**§120.12. Prohibition on Permit Issuance.**

(a) No permit shall be issued for a new hazardous waste landfill or land treatment facility or an areal expansion of an existing facility if the boundary of the facility or expansion is to be located within 1,000 feet of an established residence, church, school, day care center, surface water body used for a public drinking water supply, or dedicated public park.

(b) No permit shall be issued for a new commercial hazardous waste management facility or the subsequent areal expansion of such a facility or unit of that facility if the boundary of the unit is to be located within one-half mile (2,640 feet) of an established residence, church, school, day care center, surface water body used for a public drinking water supply, or dedicated public park.

(c) For a subsequent areal expansion of a new commercial hazardous waste management facility that is required to comply with subsection (b) of this section, distances shall be measured from a residence, church, school, day care center, surface water body used for a public drinking water supply, or dedicated public park only if such structure, water supply, or park was in place at the time the distance was certified for the original permit.

(d) No permit shall be issued for a new commercial hazardous waste management facility that is proposed to be located at a distance greater than one-half mile (2,640 feet) from an established residence, church, school, day care center, surface water body used for a public drinking water supply, or dedicated public park, at any distance beyond the facility's property boundaries, unless the applicant demonstrates to the satisfaction of the Texas Water Commission (TWC) that the facility will be operated so as to safeguard public health and welfare and protect physical property and the environment.

(e) The measurement of distances required by subsections (a) - (d) of this section shall be taken toward an established residence, church, school, day care center, surface water body used for a public drinking water supply, or dedicated public park that is in use when the notice of intent to file a permit application is filed with TWC or, if no notice of intent is filed, when the permit application is filed with TWC. The restrictions imposed by subsections (a) - (d) of this section do not apply to an established residence, church, school, day care center, surface water body used for a public drinking water supply, a dedicated public park located within the boundaries of a commercial hazardous waste management facility, or property owned by the permit applicant.

(f) The measurement of distances required by subsections (a) - (d) of this section shall be taken from a perimeter around the proposed hazardous waste management unit. The perimeter shall be no more than 75 feet from the edge of the proposed hazardous waste management unit.

September 20, 1991

**§120.13. Representations in Application for Permit.**

All representations in an application for a Texas Water Commission (TWC) permit or a modification to a TWC permit regarding construction plans and operation procedures that may affect emissions from a facility to which this subchapter applies become conditions upon which a subsequent permit is issued. It shall be unlawful for any person to vary from such representations if the change may alter the method or efficiency of controlling the emissions, the character of the emissions, or may result in an increase in the emissions of any air contaminant, unless prior notification is made to TWC and the Texas Air Control Board (TACB) and such change is approved by the permitting agency. Any such change may be approved by the permitting agency only after TACB has reviewed the proposed change and has made its recommendation on the proposed change to the permitting agency. Such person shall submit to the executive director of TWC upon request such information as may reasonably be required to enable the executive director to determine whether such activity is compliant with Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste) and whether such change may be approved. Any information provided under this subsection shall be submitted to the executive director in duplicate form.

December 13, 1991

**§120.15. Responsibility for Review of Air Quality Impacts from Existing, New, and Modified Facilities.**

(a) Technical review. The Texas Air Control Board (TACB) shall be responsible for performing a technical review of the air quality aspects of any permit application submitted to the Texas Water Commission (TWC) for a solid waste or hazardous waste management facility to which this subchapter applies. TACB shall complete such review and shall forward all recommendations or proposed permit provisions to TWC within the time limits established under Chapter 281 of this title (relating to Applications Processing) for completion of technical review of the application. All recommendations developed by TACB and forwarded to TWC shall be included in any permit issued, unless TWC determines that the recommendation or proposed revisions are less stringent than applicable federal requirements under the Federal Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, 42 United States Code §§6901 et seq., as amended. If permit provisions proposed by TACB conflict with provisions proposed by TWC, the two agencies shall attempt to resolve such conflicts prior to completing technical review of the application.

(b) Uncontested cases. If a contested case hearing is not held by TWC, the proposed provisions submitted by TACB shall be incorporated into any permit issued by TWC.

(c) Hearings. If a contested case hearing is held by TWC, all evidence and testimony of the state regarding air quality aspects of the application shall be developed and presented by TACB. All parties, including TWC, shall have the right to cross-examine any testifying witnesses of TACB. At the conclusion of the presentation of testimony, TWC shall afford TACB at least 30 days in which to submit proposed findings of fact and conclusions of law, and, if applicable, proposed permit language regarding the air quality aspects of the application. Such findings, conclusions, and permit language shall be accepted unless TWC finds that the recommendations of TACB are not supported by a preponderance of the evidence. TACB may seek judicial review of the air quality aspects of any final decision of TWC.

(d) Enforcement. Both TACB and TWC shall have authority to enforce the terms of any permit issued by TWC which relate to air quality.

December 13, 1991

**§120.21. General Air Emissions Requirements for Hazardous or Solid Waste Management Facilities.**

(a) In order for a Texas Water Commission (TWC) permit to be granted to a hazardous or solid waste management facility, including any units as provided in §120.3(b) of this chapter (relating to Applicability), the owner or operator of such facility or unit shall submit information to the permitting agency which will demonstrate that all of the following are met.

(1) The facility or unit will comply with all requirements of the Resource Conservation and Recovery Act and the rules promulgated thereunder insofar as these directly or indirectly relate to air contaminant emissions.

(2) The facility or unit will comply with all rules and regulations of the Texas Air Control Board (TACB) (except Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification)) and with the intent of the Texas Clean Air Act.

(3) The facility or unit will comply with all applicable requirements relating to air quality in Chapter 335, Subchapter F of this title (relating to Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, and Disposal Facilities), promulgated by TWC pursuant to the Solid Waste Disposal Act.

(4) The facility or unit will meet at least the requirements of any applicable new source performance standards promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to authority granted under the Federal Clean Air Act (FCAA), §111, as amended.

(5) The facility or unit will meet at least the requirements of any applicable emission standard for hazardous air pollutants promulgated by the EPA pursuant to authority granted under the FCAA, §112, as amended.

(6) The facility or unit will have appropriate provisions for determining significant emissions of air contaminants.

(b) The owner or operator of the facility or unit shall also comply with each of the following after operation has commenced.

(1) As soon as possible after a spill or leak of hazardous or odorous waste, all standing liquids resulting from the spill or leak shall be collected, contained, treated, or disposed of in a manner that minimizes adverse environmental impacts.

(2) Records shall be maintained on-site indicating the date, quantity, type, and composition of solid waste generated or managed at the hazardous or solid waste management facility or unit. At a minimum, the definition of waste composition shall be provided in sufficient detail to identify the significant potential air contaminants. An analysis for those chemical compounds present in concentrations greater than 1.0% by volume of the total waste stream, which includes the concentration of the total organic carbon, shall be sufficient.

(3) All records required by the permit to assure compliance with this subchapter shall be maintained at the plant site and shall be made available to representatives of TACB or TWC upon request. Such records shall be maintained on-site for at least three years.

(4) All sampling, monitoring, testing, and calibration equipment and procedures related to air emissions shall be conducted in accordance with the quality assurance requirements of TACB and shall have prior TACB approval.

(5) The holder of a permit shall conduct sufficient stack sampling analyses, emissions monitoring, or other tests related to air emissions to prove satisfactory equipment performance upon request by the executive director of TACB. All sampling and testing procedures shall have prior TACB approval.

(6) Hazardous or solid waste management facilities or units shall not be operated unless all associated air pollution abatement equipment is maintained in good working order and functioning properly during operations.

December 13, 1991

**§120.31. Specific Air Emissions Requirements for New, Modified, and Existing Hazardous or Solid Waste Management Facilities.**

(a) Hazardous or solid waste management facilities, including any units as provided in §120.3(b) of this chapter (relating to Applicability), shall meet the following requirements.

(1) The facility or unit will utilize the best available control technology to control the emissions of air contaminants, with consideration given to the technical practicability and economic reasonableness of reducing or eliminating these emissions from the facility or unit.

(2) The owner or operator must demonstrate that the facility or unit will not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act (TCAA) . Such demonstration shall be based on waste characteristics, emissions estimates, and dispersion modeling and shall be submitted as part of the permit application.

(b) All facility units which incinerate or burn solid or hazardous waste, including those units which were in existence on or before September 1, 1987, shall meet the following requirements.

(1) The facility unit must comply with all rules and regulations of the Texas Air Control Board (TACB) (except Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification)).

(2) The owner or operator must submit a list of wastes stored, handled, processed, or disposed of at the facility unit including estimates of the quantity and character of such waste. The applicant shall certify that such information is true, correct, and complete to the best of his knowledge.

(3) If the TACB determines, based on a review of the information submitted pursuant to paragraph (2) of this subsection, that a significant potential for a condition of air pollution due to emissions from the facility unit exists and the monitoring of emissions from such facility unit is feasible.

(A) within 90 days from the date of issue of the Texas Water Commission (TWC) permit, the owner or operator of the facility unit must submit to the TACB a plan for monitoring emissions from the facility unit and must initiate monitoring within 90 days of TACB approval of such plan; or

(B) in support of the application, the owner or operator must submit to the TWC and TACB dispersion modeling demonstrating that the facility unit will not cause a condition of air pollution.

(4) If one or more complaints relating to air pollution resulting from operating of the facility unit have been received and a condition of air pollution has been confirmed by the state or local air pollution control agency within the 36 months prior to the date of notification associated with the declaration of administrative completeness, pursuant to Chapter 281, §281.17(a) of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness), the owner or operator of the facility unit must submit monitoring data or dispersion modeling demonstrating that the facility unit will not cause a condition of air pollution. Failure to submit such information may be grounds for permit denial.

May 13, 1988